

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KERVIN JEANTY,

Plaintiff,

-against-

UNITED PARCEL SERVICE; CAROL B.  
TOME; JOHN DOE (1),

Defendants.

21-CV-8312 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff Kervin Jeanty brings this action *pro se*. By order dated November 5, 2021, the Court directed Plaintiff, within 30 days, to file an amended complaint. That order specified that failure to comply would result in dismissal of the complaint. Because Plaintiff did not file an amended complaint, by order dated December 14, 2021, the Court dismissed the complaint. (ECF 5.) The Court entered judgment on the same day. (ECF 6.)

On December 15, 2021, the Court received from Plaintiff a letter, which was dated December 10, 2021, in which Plaintiff stated that he was “having a conflict with [his] liberty” and asked the Court for an extension of time to file an amended complaint. (ECF 7.) Plaintiff’s letter was mailed from the Orange County Jail and public records show that Plaintiff is currently detained in that facility. Because Plaintiff was detained at the time he filed his letter, the prison mailbox rule applies. *See Houston v. Lack*, 487 U.S. 266, 270 (1988); *Walker v. Jastremski*, 430 F.3d 560, 562-64 (2d Cir. 2005) (holding that, under the prison mailbox rule, a submission from a prisoner is considered filed on the date the prisoner signed the submission). Plaintiff’s request for an extension is therefore deemed to have been filed when he signed the submission on December 10, 2021, that is, before the Court dismissed the action on December 14, 2021.

Because Plaintiff filed his request for an extension of time before the Court dismissed the action, the Court directs the Clerk of Court to vacate its December 14, 2021 order of dismissal and civil judgment (ECF 5, 6) and to reopen this action.

The Court grants Plaintiff's request for an extension of time and directs him to submit an amended complaint, as set forth in the November 5, 2021 order, within 30 days of the date of this order. The Court further directs Plaintiff to change his address of record with the court. A change of address request is attached to this order.

### **CONCLUSION**

The Clerk of Court is directed to vacate the Court's December 14, 2021 order of dismissal and judgment (ECF 5, 6) and to reopen this action.

Plaintiff's request for an extension of time to amend his complaint is granted. The Court directs Plaintiff to file his amended complaint within 30 days of the date of this order. No summons will issue at this time. If Plaintiff fails to comply within the time allowed, and he cannot show good cause to excuse such failure, the complaint will be dismissed for failure to state a claim upon which relief may be granted.

The Clerk of Court is directed to mail a copy of this order to Plaintiff at his address of record and at the following address: Kervin Jeanty, #2021-01460, Orange County Jail, 100 Wells Farm Road, Goshen, NY 10024. A change of address form is attached to this order.

SO ORDERED.

Dated: December 21, 2021  
New York, New York

/s/ Laura Taylor Swain  
LAURA TAYLOR SWAIN  
Chief United States District Judge

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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(List the full name(s) of the plaintiff(s)/petitioner(s).)

\_\_\_\_ CV \_\_\_\_ (\_\_\_\_)(\_\_\_\_)

-against-

NOTICE OF CHANGE OF ADDRESS

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(List the full name(s) of the defendant(s)/respondent(s).)

I hereby notify the Court that my address has changed to the following:

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Date

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Signature

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Name (Last, First, MI)

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Prison Identification # (if incarcerated)

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Address

City

State

Zip Code

---

Telephone Number

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E-mail Address (if available)

**PRO SE INTAKE WINDOW LOCATIONS:**  
40 FOLEY SQUARE | NEW YORK, NY 10007  
300 QUARROPAS STREET | WHITE PLAINS, NY 10601

**MAILING ADDRESS:**  
500 PEARL STREET | NEW YORK, NY 10007  
PRO SE INTAKE UNIT: 212-805-0136